



APPENDIX I

SHERIFFS—Fees: Not To Collect Fees For Serving Papers On Behalf Of The Virginia State Bar.

December 18, 1944.

R. E. Booker, Esq., *Secretary-Treasurer*,
Virginia State Bar,
408 Law Building,
Richmond, Virginia.

My dear Mr. Booker:

I am in receipt of your letter of December 15, from which I quote as follows:

In view of the fact that all the Sheriffs in Virginia are now on a salary basis, is it proper that the Virginia State Bar should pay a sheriff any fee for serving papers on behalf of the Virginia State Bar?

"The Virginia State Bar has not had occasion to have any papers served since the sheriffs have been on a salary basis, but it appears that in the very near future it will be necessary to have papers served by sheriffs in several of the counties and cities in Virginia."

Section 1(b) of chapter 386 of the Acts of 1942 provides in effect that sheriffs shall not collect fees from the Commonwealth in connection with the performance of their duties. Therefore, the Virginia State Bar being a State agency, it should not in my opinion be required to pay fees to sheriffs for serving papers on its behalf.

Very sincerely yours,

Abram P. Staples,
Attorney General.

APPENDIX II

VIRGINIA STATE BAR—Witnesses—Fees for Mileage and Attendance. (143)

October 29, 1959

Honorable R. E. Booker
Secretary-Treasurer
Virginia State Bar

This is in reply to your letter of October 27, 1959, which reads as follows:

“The District Committees of the Virginia State Bar conduct investigations in matters involving improper conduct of lawyers. The Rules of the Virginia State Bar, Sec. IV, Rule 13, provide that the District Committees may, through its officers or members, issue subpoenae for witnesses to appear before them. In a recent hearing before one of the District Committees, the following occurred:

“1. Request was made by a witness summoned on behalf of the committee that she be reimbursed for two days' loss of earnings and her mileage in attending the hearing.

“2. Counsel for accused lawyer had several witnesses summoned and mileage and attendance fee was requested on behalf of these witnesses.

“I would appreciate your advising me at your first convenience what are the duties and responsibilities of the Virginia State Bar in reference to the above questions.

App. 3

"I might add that in the past the Virginia State Bar has paid mileage and witness attendance fees to persons summoned on behalf of the committee, but so far as I recall, it has never paid either the mileage or witness fees for persons summoned on behalf of the accused lawyer."

The Virginia State Bar is an agency of the Commonwealth, and the proceedings had in such cases are statutory, or under Rules promulgated pursuant to statutory authority. Title 54 of the Code does not contain any provision relating to allowances to witnesses, and I do not find any such provision in the Rules of the Supreme Court. In my opinion, the statutes pertaining to witness fees in Commonwealth cases are applicable.

With respect to question (1), I am of the opinion that such witnesses are entitled to the allowances provided for in Section 14-186 of the Code.

With respect to question (2), I am of the opinion such witnesses are entitled to the allowances provided for in Section 14-187 of the Code, which allowances, however, may not be paid out of State funds. Section 14-188 of the Code provides that the sum to which a witness is entitled shall be paid out of the (State) treasury in any case in which the attendance is for the Commonwealth, except where it is otherwise specially provided. In all other cases such allowances shall be paid by the party for whom the summons was issued.

Of course, the Virginia State Bar fund in the State treasury is the fund out of which Commonwealth witnesses in such cases would be paid.

In the event the person against whom the complaint was made should prevail, neither he nor any witness summoned on his behalf may recover such costs from the Commonwealth, due to the provisions of § 14-197 of the Code.

APPENDIX III

VIRGINIA STATE BAR—Act Creating—Appropriation.

Commonwealth Of Virginia
Office of the Attorney General
Richmond, Virginia

July 23, 1938

Senator John S. Battle
Charlottesville, Virginia

Dear Senator Battle:

This is in reply to your letter of July 15, in which you request my opinion upon the question whether or not the provisions contained in chapter 410 of the Acts of the General Assembly of 1938 constitute an appropriation, for the purposes of administering said Act, of the moneys resulting from the collection of the annual fees thereby authorized to be assessed against and collected from members of the Virginia State Bar.

The provisions of the Act, which are clearly within the scope of the title, authorize the Supreme Court of Appeals to "prescribe, adopt, promulgate and amend rules and regulations. * * * Fixing a schedule of fees to be paid by members of the Virginia State Bar for the purpose of administering this act, and providing for the collection and disbursement of such fees * * *."

It is my opinion that the provisions contained in the language quoted evidence an obvious legislative intent that the moneys received from said fees shall be disbursed and paid out in compliance with the rules and regulations adopted by the Supreme Court of Appeals pursuant to this authority conferred upon it.

App. 5

The Constitution does not require the employment of any specific words or language to constitute an appropriation of moneys from the State Treasury. It is sufficient that the General Assembly by its legislative enactments indicate a plain and clear intention that moneys therein shall be paid out for a specific purpose. This test, I think, is fully met by the language contained in the Act.

It is my opinion, therefore, that this Act does appropriate the proceeds from the collection of said fees, and that same should be paid out on warrants of the State Comptroller drawn upon the State Treasurer, such warrants to be signed by such authority as may be prescribed in the rules and regulations hereafter adopted by the Supreme Court of Appeals.

Sincerely yours,

Abram P. Staples
Attorney General